

Arizona Supreme Court
Criminal Petition for Review - Appeal

CR-15-0380-PR

STATE OF ARIZONA v ROBERT FISCHER

Appellate Case Information

Case Filed: 4-Nov-2015
Case Closed:

Dept/Composition

En Banc

Hon. Scott Bales
Hon. John Pelander
Hon. Robert M. Brutinel
Hon. Ann A. Scott Timmer
Hon. Clint Bolick

Side 1. STATE OF ARIZONA, Appellant

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellant

Mark Brnovich, Esq. (AZ Bar No. 14134)
John R Lopez, IV, Esq. (AZ Bar No. 19182)
Joseph T Maziarz, Esq. (AZ Bar No. 9212)
William G Montgomery, Esq. (AZ Bar No. 21246)
Susan L Luder, Esq. (AZ Bar No. 17341)
Diane Meloche, Esq. (AZ Bar No. 18197)

Side 2. ROBERT FISCHER, Appellee

(Litigant Group) ROBERT FISCHER

- Robert Fischer

Attorneys for: Appellee

Steven C Smith, Esq. (AZ Bar No. 29871)
Richard R Thomas, Esq. (AZ Bar No. 10484)
Stephen C Biggs, Esq. (AZ Bar No. 26684)
Dwane M Cates, Esq. (AZ Bar No. 17964)
Tomasz Lichwala, Esq. (AZ Bar No. 30544)

Side 3. ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE, Amicus Curiae

(Litigant Group) ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

- Arizona Attorneys for Criminal Justice

Attorneys for: Amicus Curiae

Randy McDonald, Esq. (AZ Bar No. 32008)
Timothy J Eckstein, Esq. (AZ Bar No. 18321)

Side 4. ARIZONA ATTORNEY GENERAL, Amicus Curiae

(Litigant Group) ARIZONA ATTORNEY GENERAL

- Attorney General, Arizona Attorney General's Office, Mark Brnovich

Attorneys for: Amicus Curiae

Mark Brnovich, Esq. (AZ Bar No. 14134)
John R Lopez, IV, Esq. (AZ Bar No. 19182)
Linley Wilson, Esq. (AZ Bar No. 27040)
Joseph T Maziarz, Esq. (AZ Bar No. 9212)

CASE STATUS

May 3, 2016.....Submitted

Mar 15, 2016....At Issue

Mar 15, 2016....Oral Argument Granted

Nov 4, 2015.....Pending

PREDECESSOR CASE (S)

1 CA 1 CA-CR 14-0183

MAR CR2012-006869-001 DT

Cause/Charge/Class

Judgment/Sentence

Judge, Role <Comments>

Trial

Dispo

Karen A Mullins, Authoring
Judge of Order
Comments: (none)

32 PROCEEDING ENTRIES

- 4-Nov-2015 FILED: Motion to Extend the Time to File a Petition for Review; Certificate of Service (Appellee Fischer)
- 5-Nov-2015 FILED: State's Response to Appellee's Motion to Extend Time to File a Petition for Review; Certificate of Service to State's Response to Appellee's Motion to Extend Time to File a Petition for Review; State's Appendix to Response to Appellee's Motion to Extend Time to File a Petition for Review (Appellant State)

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3. 9-Nov-2015 The Court has considered Appellee Fischer's "Motion to Extend the Time to File a Petition for Review" and Appellant "State's Response to Appellee's Motion to Extend Time to File a Petition for Review." After consideration,

IT IS ORDERED granting a first extension of time to file the Petition for Review on or before November 30, 2015. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the Petition for Review is not filed by November 30, 2015. (Hon. Robert M. Brutinel)
4. 30-Nov-2015 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Appellee Fischer)
5. 30-Nov-2015 FILED: Appendix to Petition for Review; Certificate of Service (Appellee Fischer)
6. 30-Nov-2015 FILED: State's Notice of Acknowledgment of Petition for Review; Certificate of Service to State's Notice of Acknowledgment of Petition for Review (Appellant State)
7. 1-Dec-2015 FILED: Record from CofA: Electronic Record
8. 17-Dec-2015 FILED: Motion for Extension of Time to File Amicus Brief and ACCOMPANYING MOTION for Leave to File Brief as Amicus Curiae (Amicus Arizona Attorneys for Criminal Justice)
9. 17-Dec-2015 FILED: (Duplicate) Motion for Extension of Time to File Amicus Brief and ACCOMPANYING MOTION for Leave to File Brief as Amicus Curiae (Amicus Arizona Attorneys for Criminal Justice)
10. 18-Dec-2015 FILED: State's Response to Motion to File Amicus Brief and ACCOMPANYING MOTION for Leave to File Brief as Amicus Curiae; Certificate of Service (Appellant State)
11. 21-Dec-2015 Arizona Attorneys for Criminal Justice ("AACJ") has filed a "Motion for Extension of Time to File Amicus Brief and Accompanying Motion for Leave to File Brief as Amicus Curiae" and the State of Arizona has filed a "Response to Motion to File Amicus Brief and Accompanying Motion for Leave to File Brief as Amicus Curiae."

After consideration, and in light of appellee's previous motion in this matter to extend the time for filing a Petition for Review to facilitate an organization's appearance as amicus curiae;

IT IS ORDERED granting AACJ's motion for leave to file an amicus brief;

IT IS FURTHER ORDERED granting AACJ an extension of time to file its amicus brief until December 30, 2015; and

IT IS FURTHER ORDERED that the State is requested to file a Response to Petition for Review on Issue (1), along with any Response to Amicus Brief, on or before January 12, 2016.

The Petition for Review will be considered by the Court on February 9, 2016. (Hon. Ann A. Scott Timmer)
12. 30-Dec-2015 FILED: Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Robert Fischer's Petition for Review; Certificate of Service; Certificate of Compliance (Amicus Arizona Attorneys for Criminal Justice)
13. 30-Dec-2015 FILED: E-mail Consent to File Amicus Brief (Amicus Arizona Attorneys for Criminal Justice)
14. 12-Jan-2016 FILED: State's Response to Petition for Review; Certificate of Service; Certificate of Compliance (Appellant State)
15. 9-Feb-2016 ORDERED: Petition for Review = CONTINUED.
16. 10-Feb-2016 The Clerk of the Supreme Court having been authorized by the Supreme Court to issue orders at the direction of the Court, and The Court having reviewed the Petition for Review, Brief of Amicus Curiae, and Response to Petition for Review addressing Issue #1 at its agenda on February 9, 2016, and having continued the case for further deliberations,

IT IS ORDERED that the State shall file a Response to Petition for Review addressing Issue #2, including any response to the Brief of Amicus Curiae, on or before March 2, 2016.

The Petition for Review will be considered by the Court on March 15, 2016. (Janet Johnson, Clerk)
17. 29-Feb-2016 FILED: State's Response to Petition for Review (Issue 2); Certificate of Service; Certificate of Compliance (Appellant State)
18. 15-Mar-2016 ORDERED: Petition for Review = GRANTED as to Issue 2 only.

FURTHER ORDERED: The case shall be set for oral argument.

FURTHER ORDERED: The parties may file simultaneous supplemental briefs on Issue 2 and also address whether this Court should reconsider its prior characterization that a trial court sits as a "thirteenth juror" in ruling on a motion for a new trial, not to exceed 20 pages in length, no later than 20 days from the date of this Court's Minute Letter.

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19. 18-Mar-2016 FILED: Remaining Record from CofA - MCSC Instruments and MEs (Electronic)

Brown Box in Exhibit Room

Env 1-25: SEALED Juror Questionnaires

Exhibits:
HD 9/7/12 - List; Court Exh Nos 1-2
HD 7/19/13 - List; Pltf Exh Nos 1-2
HD 10/4/13 - List; Pltf Exh Nos 1; 3-4; Def Exh Nos 2; 6-7
HD 10/29/13 - List; Pltf Exh Nos 1-23; 25-27; 30-35; 37-38; 40-41; 43-50; 64-122; 159; 231; 240; 350; 361-365; 395; 397;
413-414; 416; 447-452; 466
Def Exh Nos 252-253; 259; 265; 267; 270; 279; 281; 284; 288; 291; 293-294; 298-299; 316; 321-323; 329-330; 342-343; 345-346;
348-349; 354; 367-373; 375; 377-379; 383-384; 386; 388-392; 424-425; 427; 429-430; 432-434; 454-458; 462; 467-489
HD 10/30/13 - List; Def Exh Nos 1-3
HD 11/4/13 - DefExh No 1

CofA: Instruments (1 Part)
20. 21-Mar-2016 NOTICE OF ORAL ARGUMENT: Set for Tuesday, May 3, 2016 at 9:55 A.M. [twenty minutes (20) per side]
21. 23-Mar-2016 FILED: State's Substitution of Counsel (Diane Meloche substituted for Susan L. Luder as attorney for Appellant State); Certificate of Service (Appellant State)
22. 23-Mar-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Diane Meloche will argue) (Appellant State)
23. 24-Mar-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Stephen C. Biggs will argue (Appellee Fischer)
24. 4-Apr-2016 FILED: Appellant's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellant State)
25. 4-Apr-2016 FILED: Appellee Robert Fischer's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee Fischer)
26. 6-Apr-2016 FILED: Brief of Amicus Curiae Arizona Attorney General; Certificate of Service; Certificate of Compliance (Amicus Arizona Attorney General)
27. 6-Apr-2016 FILED: Consent for Arizona Attorney General to File Amicus Brief; (Duplicate) Consent for Arizona Attorney General to File Amicus Brief (Amicus Arizona Attorney General)
28. 14-Apr-2016 FILED: Motion for Leave to File Supplemental Brief as Amicus Curiae and REQUEST to Participate in Oral Argument; Certificate of Service; Correspondence confirming no objections to motion & request to participate in oral argument (Amicus Arizona Attorneys for Criminal Justice)
29. 14-Apr-2016 FILED: Supplemental Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Robert Fischer's Petition for Review; Certificate of Service; Certificate of Compliance (Amicus Arizona Attorneys for Criminal Justice)
30. 15-Apr-2016 A "Motion for Leave to File Supplemental Brief as Amicus Curiae and Request to Participate in Oral Argument" (Amicus Curiae Arizona Attorneys for Criminal Justice) and the "Supplemental Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Robert Fischer's Petition for Review" were filed on April 14, 2016.

IT IS ORDERED granting the motion. The brief shall be filed as of April 14, 2016.

IT IS FURTHER ORDERED granting the request to participate in oral argument. Counsel for Appellee Fischer may cede part of the twenty (20) minutes allotted for appellee's oral argument to counsel for Arizona Attorneys for Criminal Justice to argue as amicus. (Hon. Scott Bales)
31. 26-Apr-2016 FILED: Appellee Robert Fischer's Response to the Brief of Amicus Curiae Arizona Attorney General; Certificate of Service; Certificate of Compliance (Appellee Fischer)
32. 3-May-2016 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Diane Meloche; Stephen C. Biggs; Timothy J. Eckstein)